

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE TREMONT SECURITIES LAW,
STATE LAW AND INSURANCE
LITIGATION

Master File No.:
08 Civ. 11117 (TPG)

This Document Relates to:

All Actions

**NOTICE OF INTENTION TO APPEAR AT THE FAIRNESS HEARING AND
OBJECTION BY THE 2005 TOMCHIN FAMILY CHARITABLE TRUST
TO THE SETTLEMENT, PLAN OF ALLOCATION, AND REQUESTED
ATTORNEYS' FEES OR, ALTERNATIVELY, MOTION TO INTERVENE;
PARTIAL JOINDER IN LAKEVIEW AND SPECTRUM OBJECTIONS**

In 2008, the 2005 Tomchin Family Charitable Trust (“Tomchin”) became a limited partner in Rye Select Broad Market XL Fund, L.P. (the “XL Fund”) by purchasing limited partnership interests unregistered under the federal securities laws. By the end of the year, Tomchin lost over \$1.7 million due to its XL Fund investment. Tomchin intends to seek redress for harm done not only to itself but also, by way of derivative claims asserted on its behalf, to the XL Fund as well. Accordingly, for reasons set forth in the objections filed by Lakeview Investment, LP (“Lakeview”), Spectrum Select II, L.P. and Spectrum Equities, L.P. (“Spectrum”), Tomchin requests that the Court not approve any of the proposed settlement terms which would or could adversely affect Tomchin’s rights as a limited partner of XL Fund, even if the Court did grant its request to be excluded from the Settlement Class. Tomchin thus submits this partial joinder in the objections filed by Lakeview and Spectrum, but only insofar as those objections relate to the protection of Tomchin’s rights and interests, including

1 but not limited to its direct and derivative claims involving XL Fund, which would or
2 could be prejudiced even if the Court did grant its request to be excluded from the
3 Settlement Class. If the Court were to determine that Tomchin's request for exclusion
4 precludes such a partial joinder in objections filed by others, Tomchin would
5 withdraw its partial joinder and simply opt out.

6 Tomchin initially contributed \$600,000 in capital to XL Fund on January 31,
7 2008, and made an additional capital contribution in the amount of \$1,000,000 to XL
8 Fund on June 23, 2008. The Tomchin Trust did not receive a distribution from XL
9 Fund. As of October 31, 2008, the amount of Tomchin's capital account balance in
10 XL Fund, as reported by XL Fund and its agents and affiliates, was \$1,716,198.81.
11 Tomchin is not certain as to its capital account balance in XL Fund as of November
12 30, 2008, as it has not received a statement from XL Fund to date.

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14 Dated: May 11, 2011

15 **MCLAUGHLIN & STERN, LLP**

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**ATTORNEYS FOR 2005 TOMCHIN
FAMILY CHARITABLE TRUST**